

REMARKS

This application has been carefully reviewed in light of the Office Action and the Dumont reference of record as used in the present rejection. Applicant respectfully requests reconsideration as follows:

Regarding All Rejections

The Office Action asserts that the claimed switch reads upon component 32 of Fig. 3 or component 40 of Fig. 4. However, the claims call for, by way of example, "a controller that directs the switch to provide one of the digital live video signal and the stored digital video signal" ... "wherein the controller receives user commands and responsive to a user command to change a channel, commands the switch to route the digital live video" (or similar language). This feature, in essence, can instruct the switch to switch from playback of recorded content that is being played back from the PVR in "near real time" (i.e., delayed by about a second) to direct playback of a live signal "responsive to a user command to change a channel". As explained in the specification (e.g., at the last paragraph of the background plus the second paragraph of the summary), this facilitates rapid channel change since the source of playback does not have to incur the approximately one second delay of storing and then retrieving content for playback in a PVR.

The cited Dumont reference, by contrast, appears to simply disclose a switch that can change a video source when so instructed. There is no teaching, suggestion or hint that switch operation depends in any way, shape or form upon the user command for implementing a channel change. Such a requirement is imposed on all claims at issue. Moreover, there is no teaching or suggestion that switching in the manner claimed can result in the increase in speed of a channel change in a PVR as taught and claimed by Applicant. The Office Action not only fails to provide art that teaches this feature or the advantage, but in fact fails to even assert that the feature is disclosed or otherwise taught or suggested by the cited art.

In view of the lack of any disclosure or suggestion that the switch operates as a result of a user command for a channel change or the resulting advantages thereof, it is respectfully

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submitted that all claims currently under consideration are allowable. Hence, reconsideration and allowance are respectfully requested at an early date.

In view of the above, the rejection to claims 1-3, 5, 7-10, 27-29 and 32-34 based upon Dumont in view of Official Notice falls short of the requirements for establishing *prima facie* obviousness. Hence reconsideration and allowance are respectfully requested.

In view of the clear allowability of claim 1, rejoinder of dependent claims 4, 6, and 11 are also respectfully requested in response hereto.

Regarding the rejection of claims 12, 13, 30-31 and 35-36 as unpatentable in view of Dumont in view of Official Notice and Russo of record, the above remarks are equally applicable. The cited Dumont reference fails to teach or suggest the connection between a change in channel and instructing the switch to switch as claimed (to paraphrase without intent to impose limitations). The Russo reference fails to provide the required teaching needed to fill this gap. Hence, the combination of Dumont with Russo and the Official Notice continues to fail to meet, teach or suggest the claim feature discussed above. Hence, the combination fails to establish *prima facie* obviousness, Reconsideration and allowance are respectfully requested at an early date.

For the Examiner's convenience, the undersigned notes that MPEP 2143.01 requires that there be a suggestion or motivation to combine or modify the reference to meet the claim features. Additionally, MPEP 2143.03 requires that all claim limitations must be taught or suggested in the cited art. In view of the failure of the references to either teach or suggest the feature discussed above (at least), it is respectfully submitted that *prima facie* obviousness has not been established.

Concluding Remarks

The undersigned notes that many other distinctions exist between the cited art (including the Official Notice taken) and the claims. However, in view of the clear failure of the art to make the disclosure or any suggestion thereof noted above, further discussion is believed to be

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unnecessary at this time. Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position or an admission of any sort.

No amendments to the claims have been, but they are presented hereinabove for the Examiner's convenience.

Interview Request

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. However, if further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview in order to expedite prosecution of this application. The undersigned can be reached at the telephone number below.

Respectfully submitted,

/Jerry A. Miller 30779/

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